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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Second periodic reports of States parties due in 1990

Addendum

CAMEROON*

[18 February 1993]

Introduction

1. The International Covenant on Civil and Political Rights and its Optional Protocol were ratified on 27 June 1984. Since that date, and in accordance with the relevant provisions of Cameroonian legislation, these two legal instruments, like all the other rules of international law that have been duly ratified and promulgated, have entered into force in Cameroon and take precedence over domestic law in the hierarchy of norms.

2. The initial report (CCPR/C/36/Add.4) submitted by the Government of the Republic of Cameroon on 11 August 1988 under article 40 of the International Covenant on Civil and Political Rights emphasized the country's traditional commitment to the cause of human rights, as evidenced in particular by the large number of texts governing the matter in national legislation.

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* For the initial report submitted by the Government of Cameroon, see document CCPR/C/36/Add.4; for its consideration by the Committee, see CCPR/C/SR.898, SR.899 and SR.903 and Official Records of the General Assembly, Forty-fourth session, Supplement No. 40 (A/44/40), paras. 454-486.

3. The present report, which complements and updates the initial report, has been prepared in accordance with the guidelines established by the Human Rights Committee (CCPR/C/20). It takes into account the revolutionary legislative and regulatory provisions brought into force since the introduction of the multiparty system in 1990.

I. GENERAL INFORMATION

4. Under this heading we shall describe the general legal framework governing civil and political rights in Cameroon. This framework consists of norms of national origin and also international legal instruments which have been incorporated into Cameroonian domestic law.

A. National legal framework

5. The 1972 Constitution, which refers in its preamble to the commitment of Cameroon to the general principles enunciated in the Covenant, guarantees the exercise of individual and collective rights and freedoms throughout the national territory.

6. Subordinate to the Constitution, and in conformity with it, are to be noted a large number of laws and regulations which have entered into force since 1990, designed to adapt Cameroonian legislation to the requirements of a multiparty system.

7. Among them the following may be cited:

(a) The Acts of 1990 regarding the state of emergency, the organization and competence of military tribunals, freedom of association, the holding of public meetings and demonstrations, etc.;

(b) The decrees of 1990 laying down conditions for the entry, residence and departure of aliens, and establishing the National Committee for Human Rights and Freedoms.

B. International conventions to which Cameroon is a party

8. In addition, Cameroon is a party to numerous international instruments designed to promote respect for the dignity and integrity of the human person, inter alia the following conventions:

(a) At the African level:

The African Charter on Human and Peoples' Rights (1981);

The OAU Convention Governing the Specific Aspects of Refugee Problems in Africa (10 September 1969).

(b) At the global level:

The Universal Declaration of Human Rights (1948);

The Convention on the Prevention and Punishment of the Crime of Genocide (9 December 1948);

The Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (2 December 1949);

The Convention relating to the Status of Refugees (28 July 1951);

The Convention relating to the Status of Stateless Persons (28 September 1954);

The Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (7 September 1956);

The International Convention on the Elimination of All Forms of Racial Discrimination (21 December 1965);

The International Covenant on Economic, Social and Cultural Rights (16 December 1966);

The Optional Protocol to the International Covenant on Civil and Political Rights (16 December 1966);

The International Covenant on Civil and Political Rights (16 December 1966);

The Protocol relating to the Status of Refugees (16 December 1966);

The International Convention on the Suppression and Punishment of the Crime of Apartheid (30 November 1973);

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (10 December 1984);

The International Convention against Apartheid in Sports (10 December 1985);

The Geneva Convention, 1949, and its Additional Protocol, 1977;

The Convention on the Elimination of All Forms of Discrimination against Women (18 December 1979).

9. Cameroonian law gives these instruments, duly ratified and promulgated, greater authority than national law (Constitution of 4 March 1960, art. 40; Nationality Code, art. 3; the Criminal Code, art. 2), and incorporates them into national legislation. It follows that any legislative act or regulation to the contrary is null absolutely in so far as the requirements imposed by the law are essential and are designed to protect the public interest, public order or public morals. In such a case, no application is possible. In addition, the provisions of any convention by which Cameroon is bound may be invoked before the courts, without any supplementary procedure being required.

10. Accordingly, respect for the law, which is obligatory for the judicial, administrative and political authorities, extends automatically to Cameroon's international commitments, and the authorities are required to bring national legislation into line with those commitments.

C. Institutions for the protection of human rights

11. There is a wide range of institutions for the protection of human rights, including the Constitution and the judiciary.

12. The Constitution and its preamble guarantee and protect the rights of citizens. In Cameroon, the main role of the judiciary is to guarantee to all citizens and residents respect for the rights recognized by the legislature, to protect them in their person, property and honour, to settle any disputes between them, and to track down offenders so that they can be brought to justice and punished. It is responsible for taking preventive action in that regard under Act No. 90/054 of 19 December 1990, concerning the maintenance of public order.

13. There are also the officers of the criminal investigation department, who, in conducting preliminary inquiries, act under the authority of a judge, in this case the Attorney-General.

14. Protection of human rights from the legal standpoint should therefore be understood in a broad sense. It includes officers of the criminal investigation department, judges, and officials of the prison service, who act as officers of the criminal investigation department when carrying out the public prosecutor's instructions.

15. As far as the investigation is concerned, human rights are protected by the reduced periods of police custody provided for under Act No. 58/203 of 26 December 1958, under which the period for which suspects may be held in police custody is limited to 24 hours (a period which may be extended 3 times by the public prosecutor), with the competent judges exercising constant supervision; by transparency in the search for evidence; and by the protection of the physical integrity of the suspect. It should be noted that the Criminal Code provides severe penalties for abuses in this regard committed by officials in the exercise of their duties (Criminal Code, art. 140), and orders the immediate release of victims of such actions (Criminal Code, art. 291; see also Ordinance No. 72/4 of 1972).

16. This protection is continued and strengthened in the case of judicial inquiries or legal proceedings instituted by the public prosecutor. In this connection, it is appropriate to note the implementation of recent Acts adopted in 1990, particularly the Act amending certain provisions of the Criminal Code (Act No. 90/61 of 19 December 1990), which makes a detention warrant optional in the flagrante delicto procedure, allows suspended sentences to be handed down, and makes judicial inquiries obligatory in all criminal cases.

17. With respect to judges, article 5 of Ordinance No. 72/4 of 26 August 1972 requires judges to give both factual and legal grounds for their decisions, on pain of having such decisions annulled. Not only is the judge sovereign to

weigh the evidence adduced in the course of the proceedings in arriving at his conclusions, but in so doing he must scrupulously respect the right of the accused to a defence, a principle consistently confirmed by the decisions of the Supreme Court, which has declared (Judgement No. 115 of 11 May 1978) "anyone who is the subject of proceedings in the criminal courts is entitled to defend himself".

18. After the judge's ruling, protection of rights is offered by appeal procedures. Parties who are not satisfied with the decision handed down may, within the prescribed period, file an application to vacate judgement, lodge an appeal or apply for judicial review, as appropriate. It should be noted in this regard that article 29, paragraph 2, of Ordinance No. 72/5 disallowing appeals in cases of subversion has now been repealed.

19. The convicted person is also protected once the decision has become final and has to be carried out. In civil cases, the decision has to be notified by a bailiff in order to be justiciable. In criminal cases, other remedies are available to a convicted person which can mean that he may not have to serve his entire sentence. He may apply for conditional release or a presidential pardon. He may even, without applying therefor, be granted a remission or commutation of sentence decided ex officio by the Head of State (art. 22 of the Criminal Code requires that all death sentences should be submitted to the President of the Republic before any execution, in order to enable the latter to exercise his prerogative of clemency. The death sentence cannot be carried out on a pregnant woman until after childbirth).

20. Ordinance No. 72/5 of 24 August 1972 on the organization of the judiciary, as amended by Act No. 90/058 of 19 December 1990, provides in article 1 that justice is administered by courts of first instance, courts of higher instance, military tribunals, courts of appeal, the State Security Court, and the Supreme Court. The various courts so constituted are competent to try offences relating to various of human rights violations, according to the responsibilities vested in each of them under the law and in conformity with duly regulated procedures.

21. Among other organs safeguarding human rights, reference may be made to the independent administrative authorities, including the National Committee for Human Rights and Freedoms, an advisory body.

II. INFORMATION RELATING TO THE ARTICLES OF THE COVENANT

22. Since 1988, as a result of the increasing liberalization of public life in Cameroon, many parts of the initial report submitted to the Human Rights Committee have become applicable, and require updating.

Article 1: The right of peoples to self-determination

23. Cameroon is strongly committed to respect for the right of peoples to self-determination and their right freely to dispose of their natural resources, manifested in particular by the free choice of development model and political system.

24. Thus, the 1972 Constitution, like all its predecessors, reaffirms that "national sovereignty is vested in the Cameroonian people" (art. 2), and states that the people have the right to determine the political system and development model of their choice, either through the President of the Republic and the deputies of the National Assembly or by means of a referendum.

25. In addition, Cameroon has played an active part in formulating international, regional and global norms calling for self-determination and independence for peoples either still subject to colonial domination or in the majority in southern Africa or elsewhere. It has also subscribed to all initiatives affirming the permanent sovereignty of States over their natural resources, notably United Nations General Assembly resolution 1803 (XVII) of 14 December 1962 and the Charter of Economic Rights and Duties of States, adopted by the General Assembly in resolution 3281 (XXIX) of 12 December 1974, and has enshrined that principle in its Constitution (preamble to the 1972 Constitution).

26. Cameroon's concerns regarding the self-determination of peoples are reflected in a number of texts in its domestic law. The electoral law applying to elections to the legislature, which has been liberalized over the years, now gives a larger number of citizens the right to vote and to stand for election. The voting age has been reduced from 21 to 20 years. Candidacies put forward by a legally recognized political party are now taken into consideration. The draft electoral laws governing the forthcoming municipal and presidential elections are in the same liberal vein as Act No. 92/020 of 16 December 1991 setting forth the conditions for the election of deputies to the National Assembly.

Article 2: Respect for human rights and provision of effective remedies

27. The rights recognized under the Covenant are guaranteed in Cameroon by the preamble to the Constitution, which has the same status in law as the main body of the text. The Constitution makes no distinction of any kind in that respect, and protection of the person and property of aliens lawfully in the national territory is guaranteed by legislation.

28. Although Cameroonian law recognizes that duly ratified international treaties shall take precedence over domestic law, the Cameroonian Constitution, as well as certain legislative and regulatory provisions, have embodied principles of the Covenant. Accordingly, the question of incorporating the provisions of the Covenant into domestic law does not arise in Cameroon.

29. Although no court has been set up in Cameroon that is exclusively responsible for trying cases of human rights violations, existing legislation already provides all complainants with an effective remedy. In that connection, mention should be made of article 4 of the Civil Code, which requires any court to which an action is referred to give judgement; failure to do so constitutes the offence of denial of justice, punishable under article 14 of the Criminal Code. The Criminal Code provides for terms of imprisonment ranging from 5 to 20 years. The law also authorizes any legal or natural persons who consider that their rights as recognized under the

Covenant have been violated by the administrative authorities to bring the matter before the administrative division of the Supreme Court. Indeed, a positive explosion in administrative litigation relating to public freedoms has been noted over the past two years, involving, inter alia, recourse proceedings by the independent press, opposition parties and associations.

30. Before such proceedings are brought, Cameroonian legislation provides for the discretionary remedy of application to the administrative authority responsible for the action complained of. Numerous cases involving rights recognized under the Covenant are settled at this stage in the procedure, without any judicial remedy being envisaged (one example is the numerous private press publications which at the end of 1991 succeeded in having a banning order lifted by exercising the discretionary remedy and undertaking to abide by the law in future).

31. Nevertheless, numerous human rights violations go unpunished in Cameroon despite the whole array of legislation described above, largely because potential litigants lack a sufficient legal culture.

Article 3: Equality of men and women

32. Equality of men and women under the law is guaranteed by the preamble to the 1972 Constitution, and this principle is given effect by a number of legal measures in the civil, political and criminal fields.

33. Generally speaking, Cameroonian legislation no longer makes any distinction between men and women, who are equal in rights and duties. It nevertheless accords women certain specific rights whose exercise is governed by the Civil Code as well as by Ordinance No. 81-02 of 29 June 1981 relating to the organization of the civil registry and various provisions concerning personal status. Under these texts, a married woman may pursue a career independently of her husband, and is free to have her own bank account. If her husband dies, his heirs may not claim any right over the person or freedom of the widow or over her share of the property, and after a 180-day period of widowhood she is entitled to remarry.

34. The civil equality of men and women has been upheld in court decisions. In judgement No. 43 of 16 January 1968, the Supreme Court of Cameroon ruled that the closest male relative of the deceased was no longer automatically entitled to the guardianship of minor children, but that it was the widow's function to act as their guardian. Two further judgements of the Supreme Court rendered on 11 June 1963 and 19 May 1964 declared that, following the proclamation of sexual equality by the Constitution, there was no further impediment to girls inheriting from their fathers in the same way as male descendants.

35. Cameroonian women enjoy legal capacity. Article 54 of Ordinance No. 81/02 of 29 June 1981 established the principle of free consent to marriage for women as well as for men. Since Decree No. 90/1245 of 24 October 1990, setting out conditions for the issue of passports and the departure of nationals from the country, married women no longer need their husbands' permission to apply for an exit visa.

36. Women in Cameroon have the right to vote and to stand for election on the same footing as men. They have equal access to public service, and have the right to be appointed to high positions in Government. Thus, two women are members of the Government elected on 9 April 1992, and Cameroon has women directors of public-sector companies and women ambassadors, while 18 per cent of National Assembly deputies are women.

37. Women have access to all educational institutions on the same footing as men.

38. Prostitution, incitement of minors to immoral behaviour and soliciting are severely punished under the Criminal Code.

39. It must be admitted, however, that there are still powerful factors militating against equality between men and women that are due to the influence of tradition or religion, particularly in the Muslim and rural areas. This probably explains why women, despite constituting 51 per cent of the country's total population, are underrepresented in the higher echelons of government.

Article 4: Derogation in cases of public emergency

40. Article 11 of the 1972 Constitution provides that the President of the Republic may, when circumstances require, issue a decree proclaiming a state of emergency, which confers on him special powers defined by law. In time of serious peril threatening the territory, life, independence or institutions of the nation, the President of the Republic may issue a decree proclaiming a state of emergency and take any measures he deems necessary. He is required to address a message to the nation informing it of such measures. The law currently governing the state of emergency in Cameroon is Act No. 90/047 of 19 December 1990, repealing Ordinance No. 72/13 of 26 August 1972, under which a state of emergency could be prolonged indefinitely. The new law marks a definite step forward on the part of the Government of the Republic in the direction of better implementation of article 4 of the Covenant. It reduces the duration of the state of emergency from six to three months, and provides that authorities in areas not subject to emergency legislation are no longer empowered to take emergency measures. In addition, it limits any extension of the state of emergency to a single three-month period, and provides that the legislature alone is competent to decide whether such an extension is appropriate. The 1990 Act also requires the authorities to inform the National Committee for Human Rights and Freedoms of any measures taken pursuant to emergency legislation, and such measures may be challenged in the courts.

41. Cameroonian law says nothing about an obligation for the Cameroonian authorities to inform other States of the international community about the nature and extent of derogations made, and the justification therefor. However, if a state of emergency were to be declared, it would be given the necessary publicity by Cameroon's diplomatic missions abroad as part of their normal information role.

Article 5: Acts aimed at the destruction of the rights and freedoms recognized in the Covenant

42. The preamble to the 1972 Constitution affirms the inalienable character of rights relating to the human person. No treaty, law or regulation may derogate from that principle, on pain of being declared unconstitutional. It follows that no act could suppress the exercise of the rights and freedoms recognized by the Constitution and by international conventions to which Cameroon is a party, or in any way restrict them.

Article 6: Right to life

43. The right to life, the cornerstone of human rights, is guaranteed in Cameroon, and the Criminal Code provides severe penalties for any violation of this right.

44. Thus, article 337 of the Criminal Code imposes a prison sentence of between two weeks and one year and/or a fine of between 5,000 and 200,000 CFA francs on a woman who terminates her own pregnancy or consents to an abortion. Paragraph 2 of the same article raises the prison sentence to between one and five years and the fine to between 100,000 and 2 million CFA francs for a person who performs an abortion on a woman, even with her consent. Finally, the same provision doubles these penalties for any person who is employed in a medical or related profession.

45. Article 338 imposes a prison sentence of between 5 and 10 years and a fine of between 100,000 and 2 million francs on any person who, even if unintentionally, by acts of violence against a pregnant woman or a child during birth, causes the death or permanent disablement of the child.

46. However, the above-mentioned articles are not applicable if the acts are performed by a competent person and justified by the need to save the mother from a serious threat to her health. Similarly, in the event of pregnancy resulting from rape, medical abortion does not constitute a crime if it is carried out after the public prosecutor's department has verified the facts.

47. In addition, a mother who is a principal in the first degree or an accomplice in the murder or killing of her child in the month of its birth is liable to a prison sentence of between 5 and 10 years, although these provisions are not applicable to principals or accomplices.

48. Sentences are heavier in the case of some violations of physical integrity, such as homicide, voluntary or involuntary, injury and voluntary or involuntary acts of violence and physical assault. Accordingly, article 275 of the Criminal Code provides for life imprisonment for anyone who causes the death of another and a prison sentence of between 10 and 20 years for anyone who permanently deprives another of the use of all or part of a limb, organ or sense. Article 277 lays down a sentence of life imprisonment if the acts of violence or physical attacks are committed during the practice of witchcraft, magic or divination.

49. In Cameroon, the death penalty is the maximum sentence laid down by the Criminal Code and by laws penalizing special offences. The Cameroonian legislature has prescribed the death penalty for some particularly serious crimes, including:

(a) Murder committed with premeditation; by poisoning; in order to prepare, facilitate or commit an offence, or to assist in the escape or ensure the impunity of the principals or accomplices in the offence (Criminal Code, art. 156);

(b) Acts of violence or physical assaults against a government employee, with the intention of killing him (Criminal Code, art. 156).

(c) Traffic in toxic or dangerous wastes (Act No. 89/027 of 29 December 1989);

(d) Aggravated theft.

Until 1990, the version of article 320 of the Criminal Code drafted on 28 September 1972, laying down the death penalty for aggravated theft, had been severely criticized both because it was applied retroactively and because the definition of aggravated theft was extremely vague. The definition of the offence included any theft, whether committed during the day or at night, either: with the use of violence; while carrying a firearm; or by housebreaking, inter alia with the use of a skeleton key or a motor vehicle. Since the adoption of Act No. 90/061 of 19 December 1990 amending certain provisions of the Criminal Code, the sentence incurred is that of aggravated theft only if the violence has led to death or serious injury as described in articles 277 and 279 of the Criminal Code referred to above.

50. Although it does exist, the death penalty in Cameroon merely acts as a deterrent, as attested by the fact that it is implemented only on an exceptional basis. During the last 10 years, apart from the executions of the conspirators of 6 April 1984, the only case in which the death penalty was applied concerned crimes involving bloodshed with aggravating circumstances (the 1988 execution of Njomzeu and Oumbe, who murdered the Mpondo family in 1979).

51. Any final death sentence handed down by the national courts is automatically the subject of a mercy petition to the President of the Republic, who may decide to exercise clemency by virtue of his discretionary power. The sentence cannot be carried out until the President of the Republic has rejected the petition (Criminal Code, art. 22, para. 2). It is important to note that, even if the convicted person does not request a presidential pardon, the public prosecutor automatically files the petition for him.

52. The law excludes minors under 18 years of age from the death penalty, on the ground that their minority status is a mitigating circumstance (Criminal Code, art. 80). In such cases article 87 of the Criminal Code provides for an automatic commutation of the sentence to deprivation of liberty for between 2 and 10 years.

53. Similarly, pregnant women cannot be executed until after childbirth (Criminal Code, art. 2, para. 3).

54. Finally, the Chief of State and the National Assembly have on several occasions exercised their right under Cameroonian legislation to grant amnesties and commutations of sentence. By way of illustration, the last amnesty law enacted by the National Assembly on 24 April 1991 permitted the release of the perpetrators of the failed coup d'état of April 1984 who were still being held.

Article 7: Torture and other cruel, inhuman or degrading treatment or punishment

55. The prohibition against torture in Cameroon is a principle that is implicitly established by the Constitution, and explicitly organized by various laws and regulations. Cameroon is also a party to numerous international legal instruments that unequivocally prohibit torture and inhuman or degrading treatment and punishment: the African Charter on Human and Peoples' Rights, the 1966 Covenants, the 1949 Geneva Conventions (which contain provisions against ill-treatment and torture), the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Cameroon has subscribed without reservation to the provisions of the Convention against Torture and has recognized the competence of the Committee against Torture, to which it submitted a supplementary report in 1991.

56. At the internal level, criminal penalties are laid down for any public officials who are guilty of "violence, brutality or physical assaults" against a detainee or any other individual. The penalty incurred is from six months to five years' imprisonment. In order to make the implementation of these provisions more effective, the draft Code of Criminal Procedure currently being prepared provides for every individual to be examined by a doctor of his choice before entering and upon leaving prison. By providing evidence of any illegal treatment during detention, this measure will make it easier to punish abuses.

57. Cameroon has an ethics committee on research involving human subjects; it comes under the Ministry of Health, which issues opinions and gives advice on all questions of general policy having ethical implications. In taking its decisions, the ethics committee bases itself on the code of human experimentation drafted on the basis of the Helsinki Declaration, revised and expanded by the version adopted by the World Health Assembly at Tokyo in October 1975, and on article 7 of the Covenant. Those provisions require the free and valid consent of a subject prior to any experimentation.

Article 8: Slavery and forced labour

58. The practices of slavery, forced labour and servitude are prohibited in Cameroon. With the introduction of the Mandate, and later under the Franco-British trusteeship of Cameroon, legislation developed over the

territory that was especially compatible with international standards in the field as it was nothing less than a transportation of the legal standards of the tutelary Powers.

59. The legal framework for punishing slavery and forced labour is today composed of standards of both internal and international origin. At the international level, these are the Slavery Convention, signed at Geneva on 25 September 1926 and amended at New York on 7 December 1953; the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (7 September 1956); the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (2 December 1949); and International Labour Organisation Conventions No. 29 concerning Forced Labour and No. 105 concerning the Abolition of Forced Labour, ratified by Cameroon on 7 June 1960 and 3 September 1962 respectively. At the internal level, the Labour Code states in article 2, paragraph 3, that "forced or compulsory labour is absolutely prohibited". The same article defines forced or compulsory labour as any service required of an individual under threat of any punishment whatsoever and against his will. The Criminal Code imposes a prison sentence of between one and five years and/or a fine of between 10,000 and 500,000 CFA francs on any person who requires another to perform work against his will (art. 292). Article 293, paragraph 1, imposes a prison sentence of between 10 and 20 years on any person who enslaves another or keeps him in slavery or participates, even occasionally, in traffic in persons. Paragraph 2 of the same article imposes a prison sentence of between one and five years and a fine of between 10,000 and 1 million CFA francs on any person who gives or receives monies earned by a person practising prostitution.

Article 9: Right to liberty and security

60. The right to liberty and security is recognized by the Cameroonian Constitution, the preamble to which states: "Liberty and security are guaranteed to each individual with due respect for the rights of others and the higher interest of the State".

61. On the basis of this principle, article 291 of the Criminal Code imposes a prison sentence of between 5 and 10 years and a fine of between 20,000 and 1 million CFA francs on anyone who is responsible for arbitrary arrest or abduction. The sentence is increased to 10 to 20 years' imprisonment in any of the following cases: if deprivation of liberty lasts over a month; if it is accompanied by physical or mental cruelty; or if the arrest is made by means of a false order from the authorities, through the illegal wearing of uniform or false representation.

62. The Code of Criminal Procedure describes the conditions, legal procedures and reasons for arrests. The custody of persons who are the subject of a police inquiry is strictly regulated, and, for offences under the ordinary law, is limited to a renewable period of 24 hours (Act of 26 December 1958). Thereafter, the prisoner must be handed over to the law or released, for it has always been maintained in Cameroonian legislation that, as regards persons arrested or detained for a criminal offence, liberty is the rule and detention the exception.

63. Administrative custody, however, is governed by a different system, fixed by Act No. 90/054 of 19 December 1990 on public order, which lays down a renewable 15-day detention period (as against a renewable period of two months under the previous Act).

64. Since Cameroonian law does not specifically provide for compensation for injury resulting from an illegal arrest or detention, these offences fall within the purview of the ordinary legislation on liability (Civil Code, art. 1382).

Article 10: Detention system

65. The rules applicable to the treatment of detainees are laid down in Decree No. 73/774 of 11 December 1973 establishing the penitentiary system in Cameroon, and by the Criminal Code. The 1973 Decree stresses respect for the dignity of the detainee and provides for mandatory visiting rights, whose modalities are set by each penitentiary establishment on behalf of all convicted and unconvicted prisoners. Detainees are permitted to have their meals brought in from outside in accordance with the prison regulations (decrees of 8 July 1933 and 1 March 1954).

66. It should be noted that, under the Cameroonian penitentiary system, separate detention structures are provided in order to segregate men from women, adults from juveniles, and prisoners who are to be sent to a penal colony (relégation) from those serving sentences. With particular regard to juveniles, article 80 of the Criminal Code states the following:

> "1. A juvenile under 10 years of age shall not be held criminally responsible;
>
> 2. A criminally responsible juvenile between 10 and 14 years of age may only be subject to one of the special measures prescribed by law;
>
> 3. A criminally responsible juvenile over 14 and under 18 years of age has the benefit of mitigating circumstances;
>
> 4. Anyone over 18 years of age is fully responsible."

67. While this criminal law provision states that juveniles under 10 years of age are not considered to be responsible, it does prescribe special custody or protection measures, excluding any penalties or security measures applicable to other juvenile delinquents. A juvenile under 14 years of age may be tried, but he may not be given a sentence or subjected to any other measure applicable to adults under the criminal law. He may be subject only to the imposition by a competent court of the special measures established for children.

68. There is, however, some difficulty in implementing Cameroonian legislation in respect of detention, because of the country's level of economic development. Due to the inadequacy of prison facilities, there is an insufficient degree of segregation between women and men, convicted and

unconvicted prisoners, and adult and juvenile offenders in some places of detention. In addition, because of the shortage of judges, accused persons are not always tried as promptly as could be desired.

Article 11: Prohibition of imprisonment on contractual grounds

69. Cameroonian positive law is in conformity with the provisions of the Covenant prohibiting imprisonment on the ground of inability to fulfil a contractual obligation. No criminal proceedings may be brought for injury resulting from non-performance of a contract, and the penalties laid down for theft and embezzlement (Criminal Code, art. 318) do not apply to unpaid debts.

Article 12: Right to leave any country, including one's own, and to return

70. The Constitution guarantees all nationals and lawfully resident aliens the right to settle in any place and to move about freely, subject to the legal requirements concerning public order. The regulations governing the right to leave any country, including one's own, differ for nationals and aliens.

71. Act No. 90/043 of 19 December 1990, setting forth the conditions for entry into and exit from the national territory, facilitates and simplifies the formalities for movement by individuals. This Act abolished the exit visa for all nationals and the husband's authorization formerly required from married women. Foreign residents in Cameroon are free to leave the country upon presentation of a national passport or other currently valid travel document, with the exception of persons charged with a crime.

72. Under the current legislation there are no grounds or circumstances for denying a Cameroonian living abroad the right to return to his country. Numerous Cameroonians in exile abroad left their country of their own volition, sometimes in order to avoid prosecution for crimes and offences of which they were guilty under the legislation in force at the time. Since the Amnesty Act promulgated on 24 April 1991, all of them are now free to return to Cameroon.

Article 13: Resident aliens

73. Cameroon has always taken care to ensure the protection of aliens who have entered the territory legally; they enjoy guarantees laid down by the Constitution, without any restriction based on nationality. Act No. 90/043 of 19 December 1990 on conditions for entry into, exit from and stay in the territory made no changes in this area, except as regards punishment of clandestine immigration and emigration, for which the maximum custodial penalties were decreased from two years to six months.

Article 14: Guarantees relating to the administration of justice

74. The right to equal treatment before the courts and any other body which administers justice is protected by articles 1, 140, 143 and 147 of the Cameroonian Criminal Code, dealing with the equality of all before the criminal law, abuse of powers, favouritism and denial of justice. The right

to receive justice is guaranteed to all persons by the Constitution and by the Civil Code, article 4 of which penalizes denial of justice and hence makes it obligatory for the judge to return a verdict on any action submitted to him.

75. The Cameroonian system of justice, which makes a distinction between courts of modern law and courts of traditional law, also reflects the desire to bring the law closer to the people. Regarding publicity for decisions, article 4, paragraph 1, of Ordinance No. 72/4 of 26 August 1972 on the organization of the judiciary provides that "Justice shall be administered in public and any decision shall be announced in public". Any violation of this provision renders the trial procedure automatically null and void (art. 4, para. 2).

76. However, the law gives the judge the possibility of ordering that a case should be heard wholly or partly in camera for the purpose of safeguarding public order, public decency or State security (art. 4, para. 3). The judge is also authorized to order in camera proceedings in certain cases involving minors or couples, in order to safeguard their privacy. The preamble to the Constitution states that no one may be prosecuted, arrested or detained, except in those cases and according to those procedures determined by the law. The investigation procedure as defined by the Code of Criminal Procedure is based on the cardinal principal that the accused is presumed innocent. Thus, throughout the investigation, an untried prisoner is simply an accused person. He becomes charged with a crime during the proceedings and will only be convicted if the court finds him guilty. Cameroonian positive law provides every person accused of a criminal offence with all the gaurantees laid down in article 14, paragraph 3, of the Covenant.

77. Thus, when the accused first appears before the court, he is formally notified of the acts of which he is accused, the legal offences which they constitute and the wording of the law which covers and lays down penalties for such acts. He is allowed time to prepare his defence if he requests it. In any event, he may receive assistance from legal counsel of his own choice, if he is in a position to employ one, failing which the State will appoint counsel on his behalf. He will be notified of all the evidence against him as soon as possible. Finally, assistance of counsel is obligatory in criminal cases and before the Supreme Court. In addition, the accused (or his counsel) has access to objects or documents adduced in evidence; he may examine them and, if he so requests, they must be produced in court. He has the right to confront witnesses, who testify in his presence, and to have them cross-examined. Finally, the statements of the accused and the testimony of witnesses enjoy legal protection against wrongful influence, violence and extortion of confessions. Judicial or administrative decisions handed down by national courts are open to the usual remedies (appeal, action for annulment).

78. Until the promulgation of Act No. 90/048 of 19 December 1990 amending the Ordinance on the organization of the judiciary, military tribunals tried certain cases in first and last instance, and in many of those cases the death penalty was incurred. Since the adoption of the above-mentioned Act, all judgements of the military tribunals have been open to appeal, and the rights of the defence in military proceedings are now guaranteed. The

non bis in idem rule, which is applicable in Cameroon, prohibits a person from being prosecuted or punished for an offence of which he has already been convicted by final judgement in accordance with the law.

Article 15: Non-retroactivity of criminal law

79. The preamble to the Cameroonian Constitution, which states that the law may not have a retroactive effect, is in keeping with article 15 of the Covenant, which recognizes that if a more favourable law is passed subsequently, the accused shall be granted the benefit thereof and that this shall be the only derogation from that firm principle. The same mitigation is authorized by article 4 of the Cameroonian Criminal Code. The Cameroonian Criminal Code therefore reflects the concerns of article 15 of the Covenant, by clearly establishing two principles: the criminal law may only apply to acts committed after its entry into force; and no acts, including acts committed while a law was still in force are punishable under that law if they have not been brought to judgement before the law is expressly or implicitly abrogated or, if passed for a limited period, has expired (Criminal Code, art. 3).

Article 16: Right to recognition as a person before the law

80. The right to recognition everywhere as a person before the law was clearly a primary concern of the drafters of the Civil Code and of Ordinance No. 81/02 of 29 June 1981, who were careful to regulate precisely its recognition and protection. This legislation proclaims that personality begins at birth or at conception and ends with death. Moreover, it establishes the regulations governing legal incapacity and disqualification, in order to prevent any possible absues.

Article 17: Protection of privacy

81. The Cameroonian Constitution provides that:

> "The home is inviolable. No search may be carried out except in accordance with the law.
>
> The secrecy of correspondence is inviolable.
>
> It may only be breached by decision of the judicial authorities."

These two provisions of the preamble constitute a bulwark against illegal inteference with a person's privacy, home or correspondence.

82. Many articles of the Criminal Code which were formulated in application of the Constitution, punish breaches of the peace of individuals:

(a) Under article 299, anyone who enters the home of another person against his will shall be punished by a prison sentence of between 10 days and one year and/or a fine of between 5,000 and 50,000 CFA francs. The sentences shall be doubled if the offence is committed at night or accompanied by threats, acts of violence or physical attacks. However, legal proceedings may only be instituted following a complaint by the victim.

(b) Under article 300, anyone who, without the permission of the addressee, destroys or opens the correspondence of another shall be punished by a prison sentence of between two weeks and one year and/or a fine of between 5,000 and 100,000 CFA francs. This article is not applicable to spouses or the father, mother, guardian or person usually responsible for children who are under age or for unemancipated persons who are of age.

(c) Article 301 provides that anyone who, by means of any written or pictorial material, threatens another with acts of violence, physical attacks, destruction of any property or housebreaking, shall be punished by a prison sentence of between 10 days and three years and a fine of between 5,000 and 150,000 CFA francs.

(d) Under article 305, anyone who attacks the honour or reputation of another by making direct or indirect allegations against him which cannot be proved shall be punished by a prison sentence of between six days and six months and/or a fine of between 5,000 and 2 million CFA francs. Act No. 87-19 of 17 December 1987 regulating the audio-visual media and Act No. 90/052 of 19 December 1990 concerning the freedom of social communication guarantee all natural or legal persons a right of reply if allegations damaging to their honour, reputation or standing have been broadcast by an organ of the audio-visual media or published by the press. There are some restrictions on the principle of the inviolability of the home. Thus, in criminal matters, the public prosecutor's department may order information to be gathered by any means, including searches. However, such searches may only be carried out by day.

Article 18: Freedom of thought, conscience and religion

83. Among the principles established in the Universal Declaration of Human Rights and in the Charter of the United Nations, to which Cameroon acceded on gaining independence, the principle of freedom of religion or belief is one of the most important. In this connection, the preamble to the Constitution states unambiguously that: "No one may be harassed because of his origins, opinions or religious, philosophical or political beliefs, subject to respect for public order". Concerning freedom of religion more specifically, the preamble states that "Freedom of worship and its unrestricted practice shall be guaranteed".

84. Furthermore, as there are a great variety of religious persuasions in Cameroon, the independence and neutrality of the State in religious matters are guaranteed by the Constitution. The Criminal Code protects the freedom of religion in its articles 269-271, concerning freedom of conscience, offensive behaviour towards a minister of religion, and prevention of ministry. The punishments imposed range from a prison sentence of between one month and three years and a fine of between 5,000 and 50,000 CFA francs.

Article 19: Freedom of expression and of the press

85. The Constitution guarantees freedom of expression and of the press, which in Cameroon are regulated by the Act concerning the freedom of social communication (Act No. 90/052 of 19 December 1990). Under the terms of this Act, and in accordance with Government policy on the subject, no one can any

longer be obliged to go into exile in order to express his opinions freely. Since the entry into force of the Act concerning freedom of social communication, many measures have been adopted, concerning for example: the relaxation of censorship, which seeks only to protect public order, morality and the reputation of others; protection of the sources of the organs of social communication and of the places where they are prepared, produced or manufactured, broadcast or preserved; and liberalization of the organs of the audio-visual media, which are no longer State monopolies. The statutory instruments defining the practical modalities for establishing the management of these organs are to be published shortly, and this will be done as soon as the National Communication Council has given its opinion.

86. In short, in Cameroon, freedom of expression and of the press are being assured extremely effectively, as attested by the 46 newspapers which appear regularly and which criticize the actions of the Government, sometimes very severely.

Article 20: Prohibition of propaganda for war and any incitement to hatred, hostility or violence

87. Faithful to the ideals of peace set forth in the Charter of the United Nations, and to the good-neighbourliness policy which is one of the cardinal principles of its relations with the States of the subregion, Cameroon has adopted an extremely severe position against any persons guilty of incitement to war (Criminal Code, arts. 111-113).

88. Cameroonian positive law punishes racial or religious hatred. Thus, article 241 of the Criminal Code imposes a prison sentence of between six days and six months and a fine of between 5,000 and 500,000 CFA francs on anyone guilty of insulting behaviour towards any race or religion to which a number of citizens or residents belong. If the offence is committed through the press or radio, the fine may be as high as 20 million CFA francs. The sentences are doubled if the crime is committed with the intention of stirring up hatred or contempt among citizens.

89. Article 242 also imposes similar penalties on anyone who denies another access to public places or to employment on the grounds of his race or religion.

90. Lastly, some of the conventions which have been ratified and promulgated have the function of regulating these issues within the Cameroonian legal order. They include:

The International Convention on the Elimination on All Forms of Racial Discrimination (21 December 1965);

The Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity (26 November 1968);

The International Convention on the Suppression and Punishment of the Crime of Apartheid (30 November 1973).

Article 21: Right of peaceful assembly

91. In Cameroon, the right of peaceful assembly is guaranteed by the Constitution, which subjects the exercise of this right to the conditions established by law. Act No. 90/055 of 19 December 1990 regulating public meetings and demonstrations has made the framework and conditions governing them considerably more flexible. Under the terms of this Act, public meetings can be held freely, the only requirement being that the district chief or sub-prefect must be notified beforehand. Demonstrations in public thoroughfares may be forbidden by order of the competent administrative authority or their venue or itinerary changed if they are liable to cause serious public disturbance.

Article 22: Freedom of association and freedom to form trade unions

92. Freedom of association and freedom to form trade unions are recognized by the preamble to the Constitution, and the terms and conditions for exercising them are specified by Act No. 90/053 of 19 December 1990, concerning freedom of association. This Act liberalizes the regulations governing associations by adapting them to the context of democracy and openness. Under this Act, all associations shall henceforth be subject to the system under which they make a simple declaration, except for foreign and religious associations which must be previously recognized. The only restrictions imposed by the legislature upon this freedom relate to associations founded for a cause or in pursuance of an objective that is contrary to the Constitution, the laws and morality, as well as those whose apparent aim is to undermine territorial security, national unity, national integration and the republican form of government.

93. It is to be hoped that the democratization of national political life will bring with it, trade union diversification, because a single trade union does not sit well with political pluralism.

Article 23: Protection of the family

94. The preamble to the Constitution establishes that it shall be the duty of the nation to protect and encourage the family, which is the natural basis of human society. Ordinance No. 81-02 of 29 June 1981 relating to the organization of the civil registry and provisions concerning personal status states, in its title IV dealing with marriage, that no marriage may be celebrated if the bride is under 15 years of age or the groom under 18 years of age, unless a special dispensation has been granted by the President of the Republic, for a serious reason.

95. Free and full consent is an essential condition of the validity of the marriage. The couple to be married must personally express their consent to the civil registrar at the marriage ceremony. The marriage may not be celebrated if consent has been obtained by coercion. Lastly, article 356 of the Criminal Code imposes a prison sentence of between five and 10 years and a fine of between 25,000 and 1 million CFA francs on anyone who compels another to marry.

96. The Civil Code and the ordinance referred to above guarantee for the engaged couple and the spouses complete equality of rights and responsibilities with respect to the marriage and at its dissolution. With regard to divorce and separation, the principal motivation of the Cameroonian legislature has been to protect the interests of the children.

97. Despite the clarity of these provisions, there have been some lapses in their application, as, for example, the absence of consent in the Muslim and rural areas, and the non-payment of alimony and other indemnities to the woman who has been repudiated. These difficulties of application demonstrate how urgent and necessary it is for Cameroon to have a family code adapted to the specific local conditions.

Article 24: Protection of the children

98. In Cameroon, every child, without any discrimination whatever, enjoys the benefit of protection measures on account of his status as a minor. Consequently, the Civil Code makes it obligatory for the family to provide education, housing and food for the child who is a minor. Furthermore, under the Constitution, the State is bound to ensure the child the right to education, apart from the protection which it grants him within the framework of its obligations under the Constitution concerning the protection of the family.

99. Ordinance No. 81-02 of 29 June 1991 requires parents to register the birth within 30 days of delivery (arts. 30 and 31). Article 35 provides that: "The surname and first name of the child shall be freely chosen by its parents. In the case of a foundling, the surname and first name shall be chosen by the finder or the civil registrar who registers the birth".

100. The Cameroonian Nationality Code grants Cameroonian nationality to any child born of Cameroonian parents. The recent ratification by Cameroon of the Convention on the Rights of the Child adopted by the United Nations General Assembly in its resolution 44/25 of 20 November 1989 has the effect of incorporating this instrument into national legislation and strengthens the legal provisions for the protection of the child.

Article 25: Participation in public affairs

101. The information given under article 1 on the right of peoples to self-determination is also valid for article 25 in so far as participation in public affairs is the tangible manifestation of the right of peoples to self-determination.

Article 26: Equality before the law and equal protection of the law

102. The Constitution of 1972, like that of 4 March 1960, proclaims in its preamble the equality of rights and obligations of all men. As a follow-up and a complement to this provision, article 241 of the Criminal Code extends the equality of all to criminal law, regardless of sex, race or religion, and article 1 of the Constitution also provides that "the Republic of Cameroon ... guarantees the equality of all citizens before the law".

Article 27: Right of ethnic, religious and linguistic minorities

103. The Constitution of Cameroon, article 1 of which proclaims the unity and indivisibility of the State, lays down the policy of the Government in respect of ethnic, linguistic or cultural minorities.

Linguistic minority

104. In Cameroon, the largest linguistic minority is made up by the English-speakers in the south-west and north-west. They are in no way deprived of the right to have their own cultural life or to use their own language. The Constitution recognizes this right, establishing that English and French shall be the official languages of Cameroon, while education policy in Cameroon tends to give English a prominent place at all stages of education. The religious minorities are protected by the secularism of the State and by the preamble to the Constitution, which establishes freedom of worship.

105. The ethnic minorities are at the centre of the national integration policy advocated by successive Governments since independence, which is aimed at preventing the over-rigid application of the majority rules of democracy lest it result in the exclusion of the ethnic minorities from the conduct of public affairs.